
**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

DAVID SEXTON,

Plaintiff,

v.

**MERCHANTS & MEDICAL CREDIT
CORPORATION, INC.,**

Defendant.

**MEMORANDUM DECISION
AND ORDER ADOPTING
AND APPROVING REPORT
AND RECOMMENDATION**

Case No. 2:19-cv-675

Judge Clark Waddoups

On September 23, 2019, Plaintiff David Sexton filed an action against Defendants Evergreen Village MHC (“Evergreen”) and Merchants & Medical Credit Corporation (“MMCC”), alleging violations of the Fair Debt Collection Practices Act (“FDCPA”) and the Utah Consumer Sales Practices Act. (ECF No. 2). Plaintiff subsequently filed an amended complaint against both Defendants on April 3, 2020 (ECF No. 12), which both Defendants timely answered (*see* ECF Nos. 13, 14). Plaintiff thereafter filed a Motion for Judgment on the Pleadings against MMCC on May 1, 2020 (ECF No. 15) and a similar motion against Evergreen on May 4, 2020 (ECF No. 17). On June 4, 2020, the court assigned this case, and the pending motions for judgment on the pleadings, to Magistrate Judge Jared Bennett. (ECF No. 23).

On July 20, 2020, and July 21, 2020, Judge Bennett issued two Reports and Recommendations (ECF Nos. 33 & 35) recommending that Plaintiff’s motions for judgment on the pleadings be denied. Plaintiff timely filed objections to those Reports and Recommendations on July 30, 2020. (ECF Nos. 37 & 38). Thereafter, Plaintiff accepted Evergreen’s Offer of Judgment (*see* ECF No. 44), judgment was entered against Evergreen Village (ECF No. 48), and Evergreen Village satisfied the judgment (ECF No. 51). Thus, Plaintiff’s Motion for Judgment

on the Pleadings against Evergreen (ECF No. 17), Judge Bennett's Report and Recommendation as to Plaintiff's motion against Evergreen (ECF No. 35), and Plaintiff's Objections to Judge Bennett's Report and Recommendation (ECF No. 38) are moot and are **DENIED AS MOOT**.

Plaintiff's Motion for Judgment on the Pleadings against MMCC seeks partial judgment on the pleadings only as to the question of whether MMCC violated the FDCPA. Such a request is procedurally improper, as Rule 12(c) does not "permit[] piecemeal judgment on part of a claim." *See Kenall Mfg. Co. v. Cooper Lighting, LLC*, 354 F. Supp. 3d 877, 894 (N.D. Ill. 2018). Indeed, when it was passed, Rule 12(c) was designed to prevent "the piecemeal process of judicial determination." *See Noel v. Olds*, 149 F.2d 13, 15 (D.C. Cir. 1945). As Plaintiff is not entitled to the relief he seeks, the court **ACCEPTS** Judge Bennett's recommendation that the Motion be denied.

Plaintiff raises four objections to Judge Bennett's Report and Recommendation as to Plaintiff's Motion for Judgment on the Pleadings against MMCC (the "Report"), that the Report: 1) incorrectly combines the first two stages of adjudicating a claim under the Fair Debt Collection Practices Act (the "FDCPA"); 2) incorrectly disregards material and undisputed facts that are sufficient to adjudicate whether a FDCPA violation occurred; 3) erroneously relies upon MMCC's unsupported assertion of the bona fide error defense; and 4) incorrectly reads a scienter requirement into the FDCPA. Pursuant to 28 U.S.C. § 636(b)(1)(C), this court has made "a de novo determination of those portions of [the Report] . . . to which [these] objection[s are] made," and finds that each objection is baseless. Plaintiff has failed to offer any support for the three-step adjudication that he argues governs the adjudication of his FDCPA claim. Rather it seems that Plaintiff's process arises from his own conceptualization of a FDCPA claim, not from precedent. The court declines to adopt Plaintiff's regimented, and piecemeal, process. Because

each of Plaintiff's objections relies on the application of that process, each fails and is therefore **OVERRULED**. Judge Bennett's Report and Recommendation (ECF No. 33) is **APPROVED OF AND ADOPTED**, and Plaintiff's Motion for Judgment on the Pleadings against MMCC (ECF No. 15) is **DENIED**.

DATED this 24th day of November, 2020.

BY THE COURT:



Clark Waddoups
United States District Judge